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February 9, 2021

VIA ECF AND FAX

Hon. Nicholas G. Garaufis
United States District Judge
Eastern District of New York
United States Courthouse, Room 1426 S
225 Cadman Plaza East
Brooklyn, NY 11201
F: (718) 613-2546

Re: *Bay Park Center for Nursing & Rehabilitation LLC, et al., v Philipson, et al.*,
Index No. 2:20-cv-06291-NGG-CLP (EDNY)

Dear Judge Garaufis:

This firm represents itself and several of the other named defendants (“Allstate Defendants”)¹ in the above-captioned action. We write to respectfully request a modest extension of two weeks of the current briefing schedule on the pending motion to remand submitted by the “Employer Defendants”² dated January 21, 2021 (“Remand Motion”). *See* Dkt. 10. There is good cause for the requested extension.

On January 25, 2021, Judge Gary R. Brown issued a scheduling order setting the current deadline for responses to the Remand Motion for February 9, 2021 and scheduling a hearing for March 8, 2021. Subsequently, on February 4, 2021 an order was issued reassigning this action

¹ The “Allstate Defendants” as used herein means the following parties: Allstate Administrators, Inc.; Allstate ASO/Allstate ASO, Inc.; the Landa Group; Benjamin Landa/Ben Landa; Parkview Care & Rehabilitation Center, Inc.; Patrick Formato; the Schlesinger Family Trust; Sam Schlesinger; and Yechiel Landa.

² The “Employer Defendants” include the following parties: Bay Park Center for Nursing & Rehabilitation LLC d/b/a Bay Park Center for Nursing & Rehabilitation LLC; Brookhaven Rehabilitation & Health Care Center LLC d/b/a Brookhaven Rehabilitation & Health Care Center LLC; Caring Family Nursing & Rehabilitation Center d/b/a New Surfside Nursing Home LLC; Eastchester Rehabilitation & Health Care Center d/b/a Eastchester Rehabilitation & Health Care Center LLC; Golden Gate Rehabilitation & Health Care Center d/b/a Golden Gate Rehabilitation & Health Care Center LLC; Grace Plaza Nursing & Rehabilitation Center d/b/a Pinegrove Manor LLC; Nassau Rehabilitation & Nursing Center d/b/a Nassau Operating Company, LLC; Park Avenue Extended Care Facility d/b/a Park Avenue Operating Company, LLC; South Point Plaza Nursing & Rehabilitation Center d/b/a Bayview Manor LLC; Spring Creek Rehab & Nursing Care Center d/b/a Willoughby Rehabilitation & Health Care Center LLC; the Hamptons Center for Rehabilitation & Nursing d/b/a North Sea Associates, LLC; Throgs Neck Rehabilitation & Nursing Center d/b/a Throgs Neck Operating Company, LLC; and Townhouse Center for Rehabilitation & Nursing d/b/a Townhouse Operating Company.

from Judge Brown and Magistrate Judge A. Kathleen Tomlinson to Your Honor and Chief Magistrate Cheryl L. Pollak. As our firm was recently retained by the Allstate Defendants, we respectfully request that the deadline for responses to the Remand Motion be extended until February 23, 2021 and that the hearing be adjourned until March 16, 2021. We request this brief extension to allow us sufficient time to evaluate the issues raised by Remand Motion, as well as the related subsequent submissions, and to file a meaningful response. Additionally, our firm is still in the process of determining with our clients whether we will be retained in connection with this action by several of the numerous additional defendants, many of which we have represented in other lawsuits involving the same or substantially similar issues and parties.

This is the first request for an extension of the briefing schedule on the Remand Motion. Furthermore, I am not aware of any other scheduled dates in this matter aside from those referenced above that would be affected by the requested extension. I have spoken by phone with Alexander J. Sperber, counsel for the moving Employer Defendants, and he advised me that he consents to an extension. I understand that Frank Policelli, counsel for the Intervenor-Plaintiff Oriska Corporation, does not consent to an extension based on his position set forth in his letter dated February 2, 2021 that the Employer Defendants do not have standing to object to the removal of this action because they have not yet been served with the Amended Complaint. *See* Dkt. 16. I further understand that Mr. Policelli's position reflects the position of James M. Kernan, counsel for the "Class Defendants."³

We thank the Court for its attention to this matter and are available at the Court's convenience if it has any questions regarding this request.

Respectfully submitted,

/s/ Timothy A. Chorba
Timothy A. Chorba

cc: All Counsel of Record (via ECF)

³ The "Class Defendants" include the following parties: Donna Hodge, Annette Hall, Karen Grant Williams, and Alexi Arias.